

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ALEX ADAMS,

Plaintiff,

v.

MICHAEL CARVAJAL, et al.,

Defendants.

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Case No. 6:22-cv-165-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Alex Adams, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636.

On October 7, 2022, Judge Love issued a Report and Recommendation recommending that the Court dismiss this case without prejudice for failure to state a claim upon which relief can be granted. Docket No. 17. Plaintiff objected. Docket No. 18.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other*

grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


In his objections, Plaintiff lists thirteen previous lawsuits he has filed as evidence of dates or locations of alleged incidents. He also states that he is actually innocent and that DNA testing concluded that all of the tests run did not connect Plaintiff to the crime for which he was convicted. He asks how he can be more detailed concerning the violation of his constitutional rights.

The Magistrate Judge correctly determined that Plaintiff failed to state a claim upon which relief may be granted against any of the Defendants named in the lawsuit—namely, Federal Bureau of Prisons Director Michael Carvajal, U.S. Attorney General Merrick Garland, the chief of federal pre-trial services in San Antonio, the Inspector General of the United States, and the President of the United States. As the Report explained, none of these Defendants had any duty under the Constitution or laws of the United States to act upon Plaintiff's complaints as Plaintiff believed appropriate, and Plaintiff has no right to have any other person criminally prosecuted. Listing previous lawsuits he has filed does not meet the requirement of stating specific facts in support of his present allegations. Plaintiff's claim of actual innocence is properly raised through a request for executive clemency or in a petition for the writ of habeas corpus and not in a civil rights lawsuit. Further, the record does not show and Plaintiff offers nothing to suggest that any of the named Defendants can take any action regarding a claim of actual innocence of a state conviction.

Having conducted a de novo review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court **OVERRULES** Plaintiff's objections (Docket No. 18) and **ADOPTS** the Report of the Magistrate Judge (Docket No. 17) as the opinion of the District Court. Plaintiff's claims are **DISMISSED** without prejudice for failure to state a claim upon which relief can be granted.

Signed this

Dec 20, 2022



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE